



# ISSUES AND DRAFTING TIPS WHEN OWNERS' SITUATIONS DIFFER

## UT LAW CLE

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## Introduction

Those coming together to start a business typically are enthusiastic about its prospects and aligned on its future.

Experience tells us that at some point their views may diverge.

This is more likely to be the case if the parties' situations differ.

When your client or clients are forming a new business or entity, as a lawyer you should encourage them to consider what happens if, in the future, they no longer see eye.

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# Introduction

## Two Sets of Issues

The first deals with how to make decisions where there is disagreement

The second is a list of situations where this may arise in advance – due to outside influences – that you might anticipate in your agreements

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# Management

## What If They Do Nothing?

### *Basic Voting and Contribution Rules*

The “default” rule in most situations under Texas’s and most other states’ business organizations statutes—i.e., what the law provides if agreements or governing documents for an entity are silent—is majority rule).

Parties have great freedom to change these rules, and thus they need to understand what other options they might have as well as what happens if their agreement is silent

TEX. BUS. ORGS. CODE §§ 21.415(a) (corporate board),  
101.355 (limited liability company),  
152.209(a) (general partnerships as to matters in ordinary course);  
153.152(a)(1) (general partnership provisions apply to general partners of limited partnerships).

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